

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KING RANGE, JR.,

Plaintiff,

-against-

230 WEST 41ST STREET LLC, HAT TRICK
PIZZA, INC., DOMINO'S PIZZA LLC AND
DOMINO'S PIZZA FRANCHISING LLC,

Defendants.

Civil Action No.: 1:17-cv-00149-LAP

**DECLARATION OF JERRY
STEELE**

Jerry Steele, pursuant to 28 U.S.C. § 1746, hereby declares under penalty of perjury that the following is true and correct:

1. I am over the age of 18 and have personal knowledge of the following facts.
2. I am Chief Operating Officer of the Research Foundation of The City University of New York (the "Foundation"). I am also currently a board member of Defendant 230 West 41st Street LLC ("230 West"). The Foundation is the sole member of 230 West.
3. I respectfully submit this declaration in support of Defendants' Motion for Summary Judgment.
4. 230 West acquired the building located at 219 West 40th Street, New York, New York 10018 (the "Building") in July of 2004. From the time of acquisition to the present, Defendant Hat Trick has operated a Domino's pizza store (the "Property") at the ground floor of the Building.
5. In addition to the Building, 230 West owns the adjacent building located at 230 West 41st Street, New York, NY 10036, and has its offices in this building.

6. 230 West has no employees of its own. Rather, back-office services are provided to 230 West by the Foundation, and 230 West operates the Building through Colliers International, a third-party management company.

7. While 230 West collects annual rent revenues in the millions, it also has a loan balance of \$63,258,038 from its refinancing of the Building.

8. 230 West must maintain cash and cash equivalents in reserve, as the Building is maintained through repairs and capital improvements as needed.

9. Excess revenue after operating expenses, debt service and reserves collected by 230 West for the Building is made available to the Foundation to support its operating expenses.

10. The Foundation is a not-for-profit corporation that is critical to the many research initiatives and projects of The City University of New York ("CUNY"). It has its only office located at 230 West 41st Street, New York, New York 10036, and directly employs approximately 200 people at that location.

11. Specifically, the Foundation is the fiscal agent for all grants and contracts for CUNY.

12. Based on relatively flat levels of grant-based revenue over the last several years, 230 West effectively subsidizes the Foundation and, in turn, its public mission of supporting CUNY research initiatives.

13. The tenants above the first floor in the Building, including the CUNY School of Journalism, lease office space from 230 West. Any construction activities causing excessive noise would have to be performed during non-operating hours.

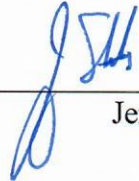
14. Because of the Building staff's unionized status, 230 West requires that all contractors conducting renovation work use union labor.

15. 230 West is required to secure the Building during any overnight construction work, since there is no security staffing provided on a 24-hour basis. Any security personnel who perform work at the Property during overnight hours must also be paid at overtime wage rates.

16. Plaintiff never complained to 230 West or the Foundation until he filed his lawsuit in January 2017.

17. Upon information and belief, this lawsuit is the first ADA accessibility complaint of any kind against the Building in the time it has been owned by 230 West.

Dated: New York, New York
February 7, 2020



Jerry Steele